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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,556	01/22/2001	Terry Paul Drees	01704276	2455

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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/767,556

Applicant(s)

DREES ET AL.

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 20-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-19 and 53-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. Applicant's request for continuing examination (RCE), amendments, and accompanying remarks filed 12/24/03 have been fully considered and entered. Claims 1 and 14 have been amended as requested along with the amendments to withdrawn claims 21,34,26,33,37,42,43,45, and 52. Applicant's amendments have been found sufficient to overcome the rejection of claims 1,2, 5 and 53-56 rejected under 35 U.S.C. 102(b) as being anticipated by Buoniconti et al., US 6,030,705 as set forth in section 4 of the Final Office Action. As such, these rejections are hereby withdrawn. In addition the rejection of claims 3 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Buoniconti et al., US 6,030,705 in view of Min US 6,093,473 as set forth in section 6 of the Final Office Action are also withdrawn as said claims depend directly from claim 1. Specifically, applicant amended claim 1 and 14 to limit the orientation of the core layer to below the decorative layer. Despite this advance, however, Applicant's amendments are not found to patently distinguish the claims over the prior art of Min in view of Eckart et al., and a new ground of rejection is set forth herein below.

***Allowable Subject Matter***

2. The indicated allowability of claim 6-19 is withdrawn in further consideration of Applicant's amendments and references to Min and Eckart et al. Rejections based on the previously cited references follow.

***Claim Rejections - 35 USC § 103.***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-19 and 53-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Min, US 6,093,473 in view of Eckart et al., US 5,643,666.

The patent issued to Min is directed to an abrasion resistant laminate comprising in the following order; a wear resistant top layer, a decorative layer, a core layer, an adhesive layer, a polymeric substrate base layer, and a balance layer. (Abstract and Figure 2). Therefore, Min meets the limitation of a core layer positioned below the decorative layer.

The wear resistant layer may consist of an overlay sheet having abrasion resistant particles (Column 2, lines 55-60). Min incorporates <sup>by</sup>~~as~~ reference US patent 5,141,799 to Mehta that teaches forming the wear/abrasion resistant overlay by adding amorphous silica in the form of an aqueous slurry to the surface of a substrate (Column 6, lines 7-26). Alternatively, US patent 4,713,138 also incorporated <sup>by</sup>~~as~~ reference by Min, discloses depositing a coating composition comprising resin and abrasion resistant mineral particles such as alumina on the surface of a decorative layer (Column 6, lines 40-52). Specifically, example 1 teaches a melamine formaldehyde impregnated overlay containing hard particles of alumina or silica (Column 10, lines 19-22).

With regard to the decorative layer, Min teaches a printed or colored paper that may or may not be treated with resin such as melamine or polyester (Column 7, lines 25-30). Thus, it is the position of the Examiner that a resin-impregnated paper meets the limitation of a thermosetting resin impregnated cellulosic material.

The core layer may comprise one or more additional layers formed from fiberglass, polypropylene, polyester, nylon, or carbon fiber. Min further teaches that the additional layer may comprise resin impregnated woven or non-woven sheets (Column 3, lines 1-10). With regard to the material and orientation limitations set forth in claims 6 and 7, Min teaches a sandwich orientation for the core layer comprising resin impregnated sheets, any one of the layer materials discussed above or a variety of materials including layers of polyester, nylon or carbon fibers as well as woven or woven or non-woven sheets.

Min teaches the laminate may be assembled using either a high or low-pressure technique (Column 3, lines 34-52). In addition, Min teaches producing the decorative laminate using a continuous laminate press (example 2, Column 10, lines 20-34).

Min fails to teach a core layer comprising PETG, however, the patent issued to Eckart et al., teaches sandwiching a decorative film layer between two layers of PETG co-polyester. Eckart et al., discloses that PETG co-polyester provides the exterior of the composite with sufficient strength and durability (Column 2, 67 - Column 3, 2).

Therefore, motivated to provide a decorative laminate having sufficient strength and durability, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the specific PETG copolyester taught by Eckart et al. when forming the core layer or composite core layer in the decorative laminate of Min.

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With regard to claims 53-56, the method of limitations of impregnating the cellulosic material prior, during or after lamination are not given patentable weight at this time since it is not shown that such method limitations materially effects the final product structure.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 17, 2004

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